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**REMARKS/ARGUMENTS**

Claims 1-5, 7-13, 15-21, and 23-27 are pending in the present application. Claims 6, 14, and 22 are canceled; claims 25-27 are added, and claims 1, 4, 7, 9, and 17 are amended. Support for new claims 25-27 can be found on page 13, ll. 14-19. Support for the claim amendments can be found in the claims as originally filed; on page 16, line 25 through page 17, line 10; page 29, lines 1-12; page 29, lines 6-8; page 14, ll. 17-24; page 21, l. 16 through page 22, l. 4; and page 24, ll. 7-10. Reconsideration of the claims is respectfully requested.

**I. Interview Summary**

On August 29, 2006, the Examiner and the undersigned attorney discussed the rejections of the claims under 35 U.S.C. §101 and the rejection of claim 1 under 35 U.S.C. §102. An agreement was reached that the amendments to claims 1, 9, and 17 would overcome the rejections under 35 U.S.C. §101. No agreement was reached with respect to the rejection of claim 1 under 35 U.S.C. §102.

**II. 35 U.S.C. § 101**

The Examiner rejected claims 1-24 as being directed towards non-statutory subject matter. With regard to claims 6, 14, and 22, this rejection is rendered moot as these claims have been canceled. With respect to the remaining claims, Applicants have amended the claims accordingly, thereby overcoming the rejection.

**III. 35 U.S.C. § 112, First Paragraph**

The Examiner rejected the inventions in claims 1-24 as failing to adequately teach how to make and/or use the invention in claims 1-24. This rejection is predicated upon the rejection under 35 U.S.C. § 101. In light of the fact that the rejection of 35 U.S.C. §101 has been overcome, the rejection under 35 U.S.C. §112, first paragraph has also been overcome.

**IV. 35 U.S.C. § 102, Asserted Anticipation****IV.A. Claims 1-5, 7-13, 15-21, 23, and 24**

The Examiner rejected claims 1-24 as anticipated by *Arnold et al.*, Communication Arrangement and Method for the Evaluation of at Least Two Multi-Part Communication Connections Between Two Parties to a Communication in a Multi-Node Network, U.S. Patent 5,822,301 (August 5, 1996) (hereinafter "*Arnold*"). With regard to claims 6, 14, and 22, this rejection is rendered moot as these

claims have been canceled. This rejection is respectfully traversed with respect to the remaining claims.

The Examiner states that:

**Claim 1**

Arnold teaches a method of determining the health of a computing system component, comprising:

generating at least one fuzzy data set associated with at least one measured metric of the computing system component, wherein the fuzzy data set defines fuzzy regions indicating different categories of the measured metric (col. 3, lines 22-46);

generating at least one fuzzy rule set associated with the at least one measure metric, wherein the fuzzy rule set defines a relationship of the fuzzy regions of the fuzzy data set to categories of computing system component health (col. 3, lines 22-46); and

determining the health of the computing system component based on the at least one fuzzy data set and the at least one fuzzy rule set (col. 3, lines 22-46).

Office Action dated June 14, 2006, pp. 7.

A prior art reference anticipates the claimed invention under 35 U.S.C. §102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990). All limitations of the claimed invention must be considered when determining patentability. *In re Lowry*, 32 F.3d 1579, 1582, 32 U.S.P.Q.2d 1031, 1034 (Fed. Cir. 1994). Anticipation focuses on whether a claim reads on the product or process a prior art reference discloses, not on what the reference broadly teaches. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 218 U.S.P.Q. 781 (Fed. Cir. 1983). In this case, every feature of the presently claimed invention is not identically shown in the cited reference, arranged as they are in the claims.

Applicants first address the rejection of claim 1. *Arnold* does not anticipate claim 1 as amended because *Arnold* does not teach all of the features of claim 1 as amended. Claim 1 as amended is as follows:

1. A computer-related method of determining the health of a computing system component, comprising:

generating at least one fuzzy data set associated with at least one measured metric of the computing system component, wherein the fuzzy data set defines fuzzy regions indicating different categories of the measured metric;

generating at least one fuzzy rule set associated with the at least one measure metric, wherein the fuzzy rule set defines a relationship of the fuzzy regions of the fuzzy data set to categories of computing system component health; and

determining the health of the computing system component based on the at least one fuzzy data set and the at least one fuzzy rule set.

In particular, *Arnold* does not teach "determining the health of the computer system component based on the at least one fuzzy data set and the at least one fuzzy rule set," as recited in claim 1 as amended. Nevertheless, the Examiner asserts otherwise, citing the following portion of *Arnold*:

Measured values to be acquired are at least respectively determined for: Performance (transmission capacity, transmission costs, transmission time); Time Behavior (delay time between two nodes, time change of the delay time between two nodes); and dependability (connection dependability, node dependability, packet dependability).

The measured values are processed with fuzzy logic, in that they are treated like linguistic variables whose satisfaction degrees are identified using affiliation functions, in that at least one fuzzy rule set is employed for each of the evaluation categories. The evaluation criterion for the respective communication connection is formed with two-time application of fuzzy logic, in that the satisfaction degrees for the individual evaluation categories are processed with fuzzy logic, whereby they are handled as linguistic variables that are evaluated using at least one principal fuzzy rule set. In a further embodiment at least respective rule sets that operate the following variables with one another are employed: costs of the communication connection with its transmission capacity; transmission time with the costs of the communication connection; delay time between two nodes with the time change of the delay time between two nodes; and connection dependability of the communication connection with its packet dependability.

*Arnold*, col. 3, ll. 22-46.

Neither this portion of *Arnold* nor any other portion of *Arnold* teaches or suggests the feature of "determining the health of the computer system component based on the at least one fuzzy data set and the at least one fuzzy rule set," as recited in claim 1. Instead, the cited portion of *Arnold* teaches that communication connections can be evaluated using fuzzy rule sets. However, this teaching of *Arnold* differs from the claimed step of "determining the health of the computing system component based on the at least one fuzzy data set and the at least one fuzzy rule set," because this claimed step determines the health of a computing system component. In *Arnold*, the fuzzy logic is used to evaluate different communication connections. However, a communication connection, as in *Arnold* is not the same as a computing system, as claimed. Likewise, the health of a computing system, as claimed, is not the same as evaluating the quality of a communications connection, as in *Arnold*. The Examiner has the burden of proving otherwise.

Because the health of a computing system component is not the same as the selection of a particular communication connection, *Arnold* does not teach all of the features of claim 1. Because the reference fails to show that every element of the claimed invention is identically shown in that reference, the 35 U.S.C. §102 rejection of has been overcome.

Because claims 2-5, 7, and 8 depend from claim 1, at least the same distinctions between *Arnold* and the claimed invention in claim 1 exist for these claims. Consequently, the 35 U.S.C. §102 rejection of claims 2-5, 7, and 8 has been overcome. Because claim 9 has the same distinction from *Arnold* as claim 1, the rejection 35 U.S.C. §102 rejection of claim 9 has been overcome. Because claims 10-13, 14, and 15 depend from claim 9, at least the same distinctions between *Arnold* and the claimed invention in claim 9 exist for these claims. Consequently, the 35 U.S.C. §102 rejection of claims 10-13, 14, and 15

has been overcome. Because claim 17 has the same distinction from *Arnold* as claim 1, the rejection 35 U.S.C. §102 rejection of claim 17 has been overcome. Because claims 18-21, 23, and 24 depend from claim 17, at least the same distinctions between *Arnold* and the claimed invention in claim 17 exist for these claims. Consequently, the 35 U.S.C. §102 rejection of claims 18-21, 23, and 24 has been overcome. Therefore, the rejection of claims 1-5, 7-13, 15-21, 23, and 24 under 35 U.S.C. §102 has been overcome.

Furthermore, *Arnold* does not teach, suggest, or give any incentive to make the needed changes to reach the presently claimed invention. Absent the Examiner pointing out some teaching or incentive to implement *Arnold* and determining the health of a computing system component based on at least one fuzzy data set and at least one fuzzy rule, one of ordinary skill in the art would not be led to modify *Arnold* to reach the present invention when the reference is examined as a whole. Absent some teaching, suggestion, or incentive to modify *Arnold* in this manner, the presently claimed invention can be reached only through an improper use of hindsight using Applicants' disclosure as a template to make the necessary changes to reach the claimed invention.

#### IV.B. Claims 25-27

Claim 25 is representative of new claims 25-27. Claim 25 is as follows:

25. (New) The computer-implemented method of claim 1 wherein the at least one measured metric is selected from the group consisting of processor utilization, page fault rates, number of threads, number of hits on a website, number of database queries, number of database connections, and combinations thereof.

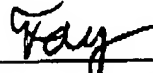
As shown above, *Arnold* is directed towards determining aspects of communications systems using fuzzy logic. Thus, *Arnold* does not teach specific metrics of computing system components, such as those recited in claim 25. Accordingly, *Arnold* does not anticipate claim 25 or the other new claims. Allowance of claims 25-27 is respectfully requested.

**V. Conclusion**

The subject application complies with the requirements of 35 U.S.C. §101 and 35 U.S.C. §112 and is patentable over *Arnold*. Therefore, the subject application should now be in condition for allowance. The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

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Respectfully submitted,



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